

REMARKS

In response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed October 7, 2004, applicants resubmit claim amendments with corrected status identifiers.

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

The claims are amended to recite that the innermost layer "consists of" a polymer blend of metallocene LLDPE and an LLDPE, which together provide a layer having a narrow molecular weight distribution, a mean density of 0.910-0.925, a 100°-122°C. peak melting point, a melt-flow index of 5-20, a swelling ratio of 1.4-1.6, and layer thickness of 6-12 g/m² or 5-35 micrometer.

The Toft reference does not recite laminates having an innermost layer consisting of a blend of m-LLDPE and LLDPE wherein the blend has the recited properties. At most, the reference suggests that certain layers can be constructed of ultra-low density polyethylene, low density polyethylene, linear low density polyethylene, and metallocene polyethylene, or mixtures thereof. The reference does not specify the properties such layers possess, and, more to the point, does not recite the unique combination recited in the instant claims, i.e., narrow molecular weight distribution, mean density, peak melting point, melt-flow index, and layer thickness.

Neither the claimed laminate, nor the polymer blend could be immediately envisaged from the Toft reference. That is, the instant laminate and the specific polymer blend of the innermost layer must be selected from a broader teaching

within the Toft reference and combined. Indeed, it is not at all clear that the innermost layer of the claimed laminate could be made or derived from the disclosure of the Toft reference. Thus, the Toft reference cannot be found to anticipate the instant claims as the specified polymer having the specified properties cannot be at once envisaged from the disclosure of the Toft reference.

Moreover, the cited reference does not anticipate the claimed invention as the innermost polyolefin layers are not described as possessing the advantageous properties that permit the thin layers of the claimed laminate. The claimed laminate has an innermost layer thickness of 6-12 g/m² (or 5-35 micrometers). The Toft reference teaches that the innermost polyolefin layer should be "applied in a quantity of approx. 15-35 g/m², preferably approx. 25-30 g/m²...." Col. 6, lines 54-57; see also col. 9, lines 55-58. ("The [innermost] polyolefin layer 13 is preferably an LDPE or an m-PE, or a blend thereof, and is applied in an amount of preferably at least 25 g/m²"); see also col. 10, lines 13-16.

It should be noted that Toft discusses an embodiment of Fig. 1C wherein a thin innermost polyolefin layer is applied in an amount of about 6-12g/m²; however, Toft explains that the sealing properties of such layers are adequate only because that embodiment has several intermediate polyolefin layers that make up the difference. Col. 10, line 64 – col. 11, line 30; see esp. col. 11, lines 21-26 ("The sealing properties of the laminate will still be excellent, since the intermediate polyolefin layers 13' and 17' together with the adhesive layer 16' will provide for a bulk of thermosealable polymer that compensates for the amount of heat sealable polymer that is missing in the innermost polyethylene layer 18."). As the thin innermost layer 18 of Fig. 1C does not independently afford the necessary sealing

properties, it would appear that the polyolefin does not possess the advantageous properties recited in the instant claims. Accordingly, the Toft reference, by its acknowledgement of the need for thicker layers and/or multiple corresponding layers, not only fails to anticipate, but teaches away from the instant invention. Reconsideration and withdrawal of the rejection is requested.

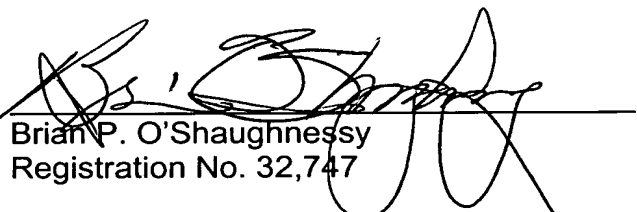
Applicants respectfully submit that the foregoing remarks and amendments place the claims in condition for allowance. If the Examiner perceives any impediments to allowance, whether substantive or formal, Applicants request that the Examiner call Applicants' attorney at the number provided below. Such informal communication will expedite resolution of such issues and disposition of the instant case.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: October 15, 2004

By:


Brian P. O'Shaughnessy
Registration No. 32,747

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620